
SENATE BILL No. 191

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-8-5; IC 27-8-10-5.1.

Synopsis: Preexisting conditions. Allows an accident and sickness insurer to apply a preexisting condition limitation or exclusion to certain policies of accident and sickness insurance for a period determined by the insurer.

Effective: July 1, 2005.

Paul

January 4, 2005, read first time and referred to Committee on Health and Provider Services.

C
o
p
y



Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 191

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-8-5-2.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) As used in this
3 section, the term "policy of accident and sickness insurance" does not
4 include the following:

- 5 (1) Accident only, credit, dental, vision, Medicare supplement,
6 long term care, or disability income insurance.
- 7 (2) Coverage issued as a supplement to liability insurance.
- 8 (3) Automobile medical payment insurance.
- 9 (4) A specified disease policy issued as an individual policy.
- 10 (5) A limited benefit health insurance policy issued as an
11 individual policy.
- 12 (6) A short term insurance plan that:
 - 13 (A) may not be renewed; and
 - 14 (B) has a duration of not more than six (6) months.
- 15 (7) A policy that provides a stipulated daily, weekly, or monthly
16 payment to an insured during hospital confinement, without
17 regard to the actual expense of the confinement.

2005

IN 191—LS 6534/DI 97+



C
o
p
y

(8) Worker's compensation or similar insurance.

(9) A student health insurance policy.

(b) The benefits provided by an individual policy of accident and sickness insurance may **not** be excluded, limited, or denied for ~~more than twelve (12) months after a period that:~~

(1) is set by the insurer at the time the policy is issued; and

(2) begins on the effective date of the coverage;
because of a preexisting condition of the individual.

(c) An individual policy of accident and sickness insurance may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

(1) a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of enrollment in the plan;

(2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of enrollment in the plan; or

(3) a pregnancy existing on the effective date of enrollment in the plan.

(d) An insurer shall reduce the period allowed for a preexisting condition exclusion described in subsection (b) by the amount of time the individual has continuously served under a preexisting condition clause for a policy of accident and sickness insurance issued under IC 27-8-15 if the individual applies for a policy under this chapter not more than thirty (30) days after coverage under a policy of accident and sickness insurance issued under IC 27-8-15 expires.

(e) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsections (b) and (c), an individual policy of accident and sickness insurance may contain a waiver of coverage for a specified condition and complications directly related to the specified condition if:

(1) the period for which the exemption would be in effect does not exceed two (2) years; and

(2) all of the following conditions are met:

(A) The insurer provides to the applicant before issuance of the policy a written notice explaining the waiver of coverage for the specified condition and complications directly related to the specified condition, including a specific description of each condition, complication, service, and treatment for which coverage is being waived.

C
o
p
y



(B) The:

- (i) offer of coverage; and
- (ii) policy;

include the waiver in a separate section stating in bold print that the applicant is receiving coverage with an exception for the waived condition and specifying each related condition, complication, service, and treatment for which coverage is waived.

(C) The:

- (i) offer of coverage; and
- (ii) policy;

do not include more than two (2) waivers per individual.

(D) The waiver period is concurrent with and not in addition to any applicable preexisting condition limitation or exclusionary period.

(E) The insurer agrees to:

- (i) review the underwriting basis for the waiver upon request one (1) time per year; and
- (ii) remove the waiver if the insurer determines that evidence of insurability is satisfactory.

(F) The insurer discloses to the applicant that the applicant may decline the offer of coverage and apply for a policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.

(G) The waiver of coverage does not apply to coverage required under state law.

(H) An insurance benefit card issued by the insurer to the applicant includes a telephone number for verification of coverage waived.

The insurer shall require an applicant to initial the written notice provided under subdivision (2)(A) and the waiver included in the offer of coverage and in the policy under subdivision (2)(B) to acknowledge acceptance of the waiver of coverage. An offer of coverage under a policy that includes a waiver under this subsection does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1. This subsection expires July 1, 2007.

(f) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer shall not, on the basis of a waiver contained in a policy as provided in subsection (e), deny coverage for any condition, complication, service, or treatment that is not specified as required in the:

- (1) written notice under subsection (e)(2)(A); and

C
o
p
y



(2) offer of coverage and policy under subsection (e)(2)(B).

This subsection expires July 1, 2007.

(g) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An individual who is covered under a policy that includes a waiver under subsection (e) may directly appeal a denial of coverage based on the waiver by filing a request for an external grievance review under IC 27-8-29 without pursuing a grievance under IC 27-8-28. This subsection expires July 1, 2007.

(h) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. Notwithstanding subsection (e), an individual policy of accident and sickness insurance may not contain a waiver of coverage for:

(1) a mental health condition; or

(2) a developmental disability.

This subsection expires July 1, 2007.

(i) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A waiver under this section may be applied to a policy of accident and sickness insurance only at the time the policy is issued. This subsection expires July 1, 2007.

(j) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. An insurer or insurance producer shall not use this section to circumvent the guaranteed access and availability provisions of this chapter, IC 27-8-15, or the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191). This subsection expires July 1, 2007.

(k) This subsection applies to a policy that is issued after June 30, 2003, and before July 1, 2005. A pattern or practice of violations of subsections (e) through (j) is an unfair method of competition or an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4. This subsection expires July 1, 2007.

(l) An offer of coverage under a policy of accident and sickness insurance for which a preexisting condition period described in subsection (b) exceeds twelve (12) months does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

SECTION 2. IC 27-8-5-19.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19.3. (a) This section applies to an association or a discretionary group policy of accident and sickness insurance:**

(1) under which a certificate of coverage is issued after June 30, 2005, to an individual member of the association or discretionary group;

C
o
p
y



- (2) under which a member of the association or discretionary group is individually underwritten; and
 (3) that is not employer based.

(b) Notwithstanding section 19 of this chapter, the benefits provided for an individual covered under a policy of accident and sickness insurance described in subsection (a) may be excluded, limited, or denied for a period that:

- (1) is set by the insurer at the time the policy is issued; and
 (2) begins on the effective date of the coverage;

because of a preexisting condition of the individual.

(c) A policy of accident and sickness insurance described in subsection (a) may not define a preexisting condition, a rider, or an endorsement more restrictively than as:

- (1) a condition that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care, or treatment during the twelve (12) months immediately preceding the effective date of enrollment in the plan;
 (2) a condition for which medical advice, diagnosis, care, or treatment was recommended or received during the twelve (12) months immediately preceding the effective date of enrollment in the plan; or
 (3) a pregnancy existing on the effective date of enrollment in the plan.

(d) An offer of coverage under a policy of accident and sickness insurance for which a preexisting condition period described in subsection (b) exceeds twelve (12) months does not preclude eligibility for an Indiana comprehensive health insurance association policy under IC 27-8-10-5.1.

SECTION 3. IC 27-8-10-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.1. (a) A person is not eligible for an association policy if the person is eligible for Medicaid. A person other than a federally eligible individual may not apply for an association policy unless the person has applied for Medicaid not more than sixty (60) days before applying for the association policy.

(b) Except as provided in subsection (c), a person is not eligible for an association policy if, at the effective date of coverage, the person has or is eligible for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana as set forth in IC 27. However, an offer of coverage described in IC 27-8-5-2.5(e), **IC 27-8-5-2.5(l)**, or IC 27-8-5-19.2(e), or **IC 27-8-5-19.3(d)** does not affect an individual's eligibility for an association policy under this subsection. Coverage

C
o
p
y



under any association policy is in excess of, and may not duplicate, coverage under any other form of health insurance.

(c) Except as provided in IC 27-13-16-4 and subsection (a), a person is eligible for an association policy upon a showing that:

(1) the person has been rejected by one (1) carrier for coverage under any insurance plan that equals or exceeds the minimum requirements for accident and sickness insurance policies issued in Indiana, as set forth in IC 27, without material underwriting restrictions;

(2) an insurer has refused to issue insurance except at a rate exceeding the association plan rate; or

(3) the person is a federally eligible individual.

For the purposes of this subsection, eligibility for Medicare coverage does not disqualify a person who is less than sixty-five (65) years of age from eligibility for an association policy.

(d) Coverage under an association policy terminates as follows:

(1) On the first date on which an insured is no longer a resident of Indiana.

(2) On the date on which an insured requests cancellation of the association policy.

(3) On the date of the death of an insured.

(4) At the end of the policy period for which the premium has been paid.

(5) On the first date on which the insured no longer meets the eligibility requirements under this section.

(e) An association policy must provide that coverage of a dependent unmarried child terminates when the child becomes nineteen (19) years of age (or twenty-five (25) years of age if the child is enrolled full-time in an accredited educational institution). The policy must also provide in substance that attainment of the limiting age does not operate to terminate a dependent unmarried child's coverage while the dependent is and continues to be both:

(1) incapable of self-sustaining employment by reason of mental retardation or mental or physical disability; and

(2) chiefly dependent upon the person in whose name the contract is issued for support and maintenance.

However, proof of such incapacity and dependency must be furnished to the carrier within one hundred twenty (120) days of the child's attainment of the limiting age, and subsequently as may be required by the carrier, but not more frequently than annually after the two (2) year period following the child's attainment of the limiting age.

(f) An association policy that provides coverage for a family

C
o
p
y



member of the person in whose name the contract is issued must, as to the family member's coverage, also provide that the health insurance benefits applicable for children are payable with respect to a newly born child of the person in whose name the contract is issued from the moment of birth. The coverage for newly born children must consist of coverage of injury or illness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. If payment of a specific premium is required to provide coverage for the child, the contract may require that notification of the birth of a child and payment of the required premium must be furnished to the carrier within thirty-one (31) days after the date of birth in order to have the coverage continued beyond the thirty-one (31) day period.

(g) Except as provided in subsection (h), an association policy may contain provisions under which coverage is excluded during a period of three (3) months following the effective date of coverage as to a given covered individual for preexisting conditions, as long as medical advice or treatment was recommended or received within a period of three (3) months before the effective date of coverage. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(h) If a person applies for an association policy within six (6) months after termination of the person's coverage under a health insurance arrangement and the person meets the eligibility requirements of subsection (c), then an association policy may not contain provisions under which:

(1) coverage as to a given individual is delayed to a date after the effective date or excluded from the policy; or

(2) coverage as to a given condition is denied;

on the basis of a preexisting health condition. This subsection may not be construed to prohibit preexisting condition provisions in an insurance policy that are more favorable to the insured.

(i) For purposes of this section, coverage under a health insurance arrangement includes, but is not limited to, coverage pursuant to the Consolidated Omnibus Budget Reconciliation Act of 1985.

SECTION 4. [EFFECTIVE JULY 1, 2005] IC 27-8-5-2.5, as amended by this act, and IC 27-8-5-19.3, as added by this act, apply to a policy of accident and sickness insurance that is issued or delivered after June 30, 2005.

**C
o
p
y**

